

Message Text

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C O N F I D E N T I A L SECTION 1 OF 2 USUN 734

E.O. 11652: GDS

TAGS: UN, TSPA

SUBJECT: OUTER SPACE LEGAL SUBCOMITE COMPLETES 14TH
SESSION

1. SUMMARY: THE 14TH SESSION OF THE OUTER SPACE LEGAL
SUBCOMITE WAS ADJOURNED AT NOON FRIDAY MARCH 7 AFTER
MEMBERS UNANIMOUSLY APPROVED A REPORT ON THE WORK DONE
ON THE DRAFT MOON TREATY, ON DRAFT PRINCIPLES FOR DIRECT
BROADCASTING OF TELEVISION SIGNALS BY SATELLITE, ON THE
LEGAL IMPLICATIONS OF REMOTE SENSING, ON THE DEFINITION
OF OUTER SPACE, AND ON THE VENUE FOR FUTURE MEETINGS OF
THE LEGAL SUBCOMMITTEE. END SUMMARY.

2. MOON TREATY:

SUBCOMMITTEE ESTABLISHED AN INFORMAL WORKING GROUP
AT THE BEGINNING OF ITS SESSION TO ATTEMPT TO WORK OUT
ACCEPTABLE FORMULAS RELATING TO EXPLORATION AND USE OF
NATURAL RESOURCES OF THE MOON AND OTHER CELESTIAL
BODIES, AND TO THE POSSIBLE ESTABLISHMENT OF AN INTER-
NATIONAL REGIME FOR THE EXPLOITATION OF SUCH RESOURCES IN
THE FUTURE. THE INFORMAL GROUP MET REPEATEDLY DURING THE
MONTH-LONG SUBCOMMITTEE SESSION, BUT WAS UNABLE TO REACH
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AGREEMENT ON A TEXT. TWO ARTICLES, HEAVILY BRACKETED,

WERE DEVELOPED, BUT WIDE DIFFERENCES STILL EXIST AMONG THE SUBCOMMITTEE MEMBERS, AND IT DOES NOT APPEAR LIKELY THAT THOSE DIFFERENCES WILL BE RESOLVED UNTIL THE LAW OF THE SEA NEGOTIATIONS HAVE RESULTED IN AGREEMENT ON NATURAL RESOURCES PROVISIONS IN THAT MORE IMPORTANT CONTEXT. A MORE DETAILED ANALYSIS OF THE SUBCOMITE'S WORK ON THIS ITEM IS CONTAINED IN USUN 725 OF 7 MARCH.

3. DIRECT TELEVISION BROADCASTING BY SATELLITE:

THE SUBCOMMITTEE ESTABLISHED A WORKING GROUP OF THE WHOLE UNDER THE CHAIRMANSHIP OF MR. VELLODI OF INDIA TO CONTINUE ATTEMPTS TO DEVELOP THE TEXTS OF DRAFT PRINCIPLES GOVERNING THE USE OF STATES OF SATELLITES FOR DIRECT TELEVISION BROADCASTING. FOURTEEN GENERAL TOPICS FOR SUCH PRINCIPLES WERE INFORMALLY AGREED AS A BASIS FOR SUCH DRAFTING, AND TEXTS WERE WORKED ON RELATING TO EACH OF THOSE TOPICS. IN THREE INSTANCES, REGARDING STATE RESPONSIBILITY, PEACEFUL SETTLEMENT OF DISPUTES, AND PRIORITY OF COMMUNICATIONS RELATING TO SAFETY OF LIFE, TEXTS OF DRAFT PRINCIPLES WERE AGREED BY ALL MEMBERS OF THE SUBCOMMITTEE. IN THE FOLLOWING ELEVEN AREAS, TEXTS WERE FORMULATED BUT CONSENSUS WAS NOT ARRIVED AT, AND IN NUMEROUS CASES THE DIFFERENCES WERE FUNDAMENTAL: PURPOSES AND OBJECTIVES OF SUCH DIRECT BROADCASTING, APPLICABILITY OF INTERNATIONAL LAW, RIGHTS AND BENEFITS, INTERNATIONAL COOPERATION, CONSENT AND PARTICIPATION, SPILL-OVER, PROGRAM CONTENT, LEGALITY OF BROADCASTS, DUTY AND RIGHT TO CONSULT, COPYRIGHT, NEIGHBORING RIGHTS AND PROTECTION OF TELEVISION SIGNALS, AND NOTIFICATION TO THE UNITED NATIONS SYSTEM. THERE WAS UNANIMOUS AGREEMENT NOT TO INCLUDE A PRINCIPLE RELATING TO A REVIEW CLAUSE.

4. FIVE OF THE ABOVE PRINCIPLES HAD BEEN ADDRESSED DURING THE 1974 SESSION OF THE LEGAL SUBCOMMITTEE, BUT IN EACH CASE EXTENSIVE DEBATE WAS AGAIN INVOLVED IN THEIR RECONSIDERATION.

5. COMMENT: ALTHOUGH THE DEVELOPMENT OF THE ADDITIONAL TEXTS APPEARS TO BE A SIGN OF MAJOR PROGRESS, IN FACT THE CONFIDENTIAL

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AREAS OF DISAGREEMENT ARE STILL FUNDAMENTAL IN MANY INSTANCES. USDEL BELIEVES THAT THE USG GOAL OF ACHIEVING ENOUGH PROGRESS TO DISCOURAGE OTHERS FROM TAKING MATTER DIRECTLY TO GENERAL ASSEMBLY THIS YEAR, WITHOUT MAKING CONCESSIONS IN US POSITIONS, HAS BEEN SATISFIED. GENERAL FEELING IN SUBCOMITE IS THAT SUBSTANTIAL PROGRESS HAS BEEN MADE, ALTHOUGH IN USDEL'S OPINION THIS IS BASED PRIMARILY ON MERE EMERGENCE OF TEXTS, REGARDLESS OF HOW

BRACKETED, RATHER THAN ON RESOLUTION OF DIFFERENCES AMONG DELS. HOWEVER, AT THE SAME TIME IT MUST BE NOTED THAT US POSITION ON PRIOR CONSENT WAS SIGNIFICANTLY SUPPORTED THIS YEAR ONLY BY UK, FRG, BELGIUM, AND TO SOME EXTENT VENEZUELA. JAPANESE DELEGATION WAS CONSPICUOUSLY SILENT THROUGHOUT THE ENTIRE DEBATE ON ALL AGENDA ITEMS THIS YEAR. ADVOCATES OF PRIOR CONSENT SEEM TO BE MOVING TOWARD AGREEMENT TO LIMIT SUCH A REQUIREMENT TO CASES IN WHICH ONE STATE DELIBERATELY PLANS TO BROADCAST AT ANOTHER STATE'S POPULATION, ALTHOUGH IN OUR VIEW THEIR APPARENT WILLINGNESS TO DROP PARTICULAR PROGRAM CONTENT REVIEW IS HARDLY AN ACCEPTABLE COMPROMISE IF IN TURN IT IS EXPECTED THAT NO PROGRAMS WILL BE BROADCAST AT ALL IN THESE CASES WITHOUT A GENERAL PRIOR CONSENT. THE MOMENTUM TO CONTINUE THIS DRAFTING EFFORT SEEMS TO BE VERY STRONG. END COMMENT.

6. LEGAL IMPLICATIONS OF REMOTE SENSING FROM OUTER SPACE:

US WORKING PAPER ON GUIDELINES FOR REMOTE SENSING OF THE NATURAL ENVIRONMENT OF THE EARTH FROM OUTER SPACE WAS INTRODUCED FEBRUARY 19 AND PROVED TO BE EXTREMELY HELPFUL IN FOCUSING THE SUBCOMITE'S ATTENTION ON THE DIFFICULT ISSUES WHICH WE BELIEVE MUST BE CONFRONTED BEFORE THE SUBCOMITE ATTEMPTS TO FORMALIZE ITS VIEWS ON THIS ITEM. APPEARANCE OF US WORKING PAPER WAS A SURPRISE TO MOST DELEGATIONS, WAS WARMLY GREETED BY MANY, AND WAS MOST UNPOPULAR AMONG THOSE WHO WISHED TO BEGIN DRAFTING THIS SESSION ON THE BASIS OF THE USSR-FRANCE AND BRAZIL-ARGENTINA DRAFTS ALREADY TABLED. WE SUCCEEDED IN AVOIDING ANY DRAFTING AT ALL ON THIS ITEM, AND IN PROVOKING SEVERAL DAYS OF USEFUL AND DETAILED DEBATE PRIMARILY ON THE WISDOM, OR IN OUR VIEW LACK THEREOF, OF A RESTRICTIVE DATA DISSEMINATION POLICY. CONFIDENTIAL

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7. WHILE A FEW DELS OPPOSED SUCH CONSIDERATION, BY FAR THE GREATEST NUMBER WERE MOST INTERESTED IN THE INTERRELATIONSHIP OF TECHNICAL AND ORGANIZATIONAL ASPECTS OF SUCH REMOTE SENSING WITH THE DEVELOPMENT OF ANY NEW LEGAL STANDARDS. BY FAR THE GREATEST NUMBER OF DELEGATIONS WERE ALSO VERY MUCH UNFAMILIAR WITH EITHER THE DETAILS OR SIGNIFICANCE OF SUCH ASPECTS.

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8. ALTHOUGH THERE IS STILL NO AGREEMENT ON TERMINOLOGY TO BE USED OR IN PRECISE SCOPE OR NATURE OF REMOTE SENSING ACTIVITIES TO BE COVERED BY THE LEGAL SUBCOMITE'S STUDY OF LEGAL IMPLICATIONS, US SEVERAL TIMES PUT INTO THE RECORD OUR POSITION THAT THE SUBCOMITE WAS AND SHOULD BE CONSIDERING ONLY THE TYPES OF PROGRAMS WHICH, FOR EXAMPLE, NASA HAS BEEN EXPERIMENTING WITH OR MAY DEVELOP.

9. THE SUBCOMITE DID AGREE THAT SEVERAL COMMON ELEMENTS COULD BE FOUND IN EACH OF THE WRITTEN DRAFTS AND ORAL COMMENTS ON REMOTE SENSING, AND THAT THOSE ARE AS FOLLOWS:
(A) THAT REMOTE SENSING ACTIVITIES BY MEANS OF SPACE TECHNOLOGY SHOULD BE CONDUCTED FOR THE BENEFIT AND IN THE INTEREST OF ALL MANKIND; THIS NEW TECHNOLOGY WOULD BE OF PARTICULAR SIGNIFICANCE TO DEVELOPING COUNTRIES IN THEIR PLANS AND PROGRAMMES FOR NATIONAL DEVELOPMENT;

(B) THAT REMOTE SENSING ACTIVITIES BY MEANS OF SPACE TECHNOLOGY SHOULD BE CONDUCTED IN ACCORDANCE WITH INTERNATIONAL LAW INCLUDING THE UNITED NATIONS CHARTER AND THE 1967 TREATY ON PRINCIPLES GOVERNING THE ACTIVITIES OF STATES IN THE EXPLORATION AND USE OF OUTER SPACE, INCLUDING THE MOON AND OTHER CELESTIAL BODIES;
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(C) THAT THE MAXIMUM BENEFITS TO ALL COUNTRIES
COULD BE OBTAINED BY INTERNATIONAL CO-OPERATION AT ALL
LEVELS, PARTICULARLY ON A REGIONAL BASIS;

(D) THAT STATES UNDERTAKING PROGRAMMES FOR REMOTE
SENSING ACTIVITIES BY MEANS OF SPACE TECHNOLOGY SHOULD
ENCOURAGE INTERNATIONAL PARTICIPATION;

(E) THAT IN REMOTE SENSING ACTIVITIES BY MEANS OF
SPACE TECHNOLOGY MEASURES SHOULD BE TAKEN TO PROMOTE
EFFORTS FOR THE PROTECTION OF THE NATURAL ENVIRONMENT
OF THE EARTH.

10. COMMENT: BY FAR THE STRONGEST CONCERN EXPRESSED BY
MEMBERS OF THE SUBCOMITE ON THIS ITEM WAS THAT SOMEHOW
OPEN DISSEMINATION OF DATA WOULD UNDERMINE THEIR ABILITY
TO MAINTAIN CONTROL OVER THE EXPLORATION AND EXPLOITATION
OF THEIR NATURAL RESOURCES. HOWEVER, IT IS OUR
VIEW THAT A GREAT DEAL OF SUCH CONCERN CAN BE ALLEVIATED
BY A BETTER UNDERSTANDING OF THE NATURE OF OUR REMOTE
SENSING EXPERIMENTS, INCLUDING OUR DATA HANDLING PROCE-
DURES, AND OF POSSIBLE FUTURE SYSTEMS. SOME ADVOCATES OF
RESTRICTIVE DATA DISSEMINATION, PRINCIPALLY BRAZIL, ARE
STILL ASSERTING PRIVATELY TO OTHERS THAT THE USG DOES NOT
EVEN MAKE AVAILABLE ALL OF ITS LANDSAT DATA. WHETHER
BRAZILIAN DEL BELIEVES THAT LINE OR NOTE, IT RAISES
CONCERNS AMONG OTHERS WHO DO NOT HAVE PERSONAL KNOWLEDGE
TO THE CONTRARY. IN THIS REGARD WE FACE SOME DIFFICULTY
BECAUSE OF THE FREQUENT CHANGES IN PERSONNEL OF MANY
DELEGATIONS ATTENDING THE LEGAL SUBCOMMITTEE SESSIONS.
EXTENSIVE FOLLOW-UP AT APPROPRIATE LEVELS IN
RELEVANT CAPITALS BEFORE NEXT SUBCOMITE SESSION MAY HELP
CONSIDERABLY IN THIS AREA. END COMMENT.

11. DEFINITION OF OUTER SPACE:

THIS ITEM WAS ADDRESSED ONLY BY ARGENTINE AND
FRENCH DELEGATIONS IN BRIEF INTERVENTIONS. DETAILS OF
SOVIET REQUEST FOR BILATERAL CONSULTATIONS CONTAINED IN
USUN 703 OF MARCH 6.

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12. VENUE OF FUTURE SUBCOMITE MEETINGS:

SOVIETS AGAIN RAISED THEIR DESIRE TO MEET EACH
YEAR IN GENEVA AND TOGETHER WITH OTHER EASTERN EUROPEANS
PRESSED VERY HARD FOR CHANGE IN 1971 DECISION TO ALTERNATE
BETWEEN NEW YORK AND GENEVA. SOVIET CASE WAS SERIOUSLY
UNDERMINED, HOWEVER, BY EXISTENCE OF A NEW SECRETARIAT
FINANCIAL ANALYSIS OF THE RELATIVE COSTS
(A/AC.105/C.2/L.104) WHICH SHOWED SIGNIFICANTLY HIGHER

COSTS IN GENEVA THAN IN NEW YORK, A FACT WHICH WAS FRE-
QUENTLY POINTED OUT BY USDEL. NO CONSENSUS WAS REACHED
ON THIS QUESTION AND THE SUBCOMITE'S REPORT WILL REFLECT
BOTH THAT OPINIONS WERE DIVIDED AND THAT THE COSTS IN
GENEVA ARE HIGHER.
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